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COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

SUMMARY RECORD OF THE 306th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 June 1996, at 10 a.m.

Chairperson: Mrs. EUFEMIO

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Guatemala (CRC/C.3/Add.33; HRI/CORE/1/Add.47; CRC/C.12/WP.

1. At the invitation of the Chairperson, Mr. Arranz Sanz, Mr. Urruela Prad Mr. Aval, Mr. Gandara, Mr. Diaz Duque and Mr. Olivero (Guatemala) took place at the Committee table.

2. The CHAIRPERSON, welcomed the Guatemalan delegation and invited it to introduce Guatemala's initial report.

3. Mr. URRUELA PRADO (Guatemala), after thanking the Chairperson for her words of welcome, said that the democratic Government of Guatemala, which hoped to engage in constructive and lasting dialogue with the Committee, attached great importance to the consolidation of the peace process and to respect for the rights of the child; it would take every possible measure to deal with the problems facing it, which were due largely to the after-effects of the armed conflict and to the lack of resources.

4. Mr. GANDARA (Guatemala) read out a message from the First Lady of Guatemala, Mrs. Patricia de Arzú, in which she outlined the actions taken by the Government to help children, young people, women and the family, which ha to be seen in a very specific context. Guatemalan society was emerging badly bruised from a very long internal armed conflict, in the course of which more than 120,000 people had died or disappeared. Additional factors were poverty discrimination, inequality, malnutrition, a shortage of housing and schools and insufficient health care.

5. In order to provide effective and lasting solutions to all such problem the Government was currently preparing a draft code on childhood and adolescence and would very shortly be establishing an institute with the task of coordinating and supervising - in collaboration with the Committee for Minors, Women, the Family and Old People - action to benefit children. The Government was, moreover, attempting to incorporate measures to help children with regard to health, nutrition and education, among others, into the framework of a comprehensive policy of development and access to basic services; the policy would be rooted in the primacy of moral values, which were currently undergoing a crisis with tragic effects that were evident in society in general and in children particularly. One manifestation of the crisis was the internationalization of organized crime, which weighed most heavily on small countries with weak economies, undermined their institutions and threatened the living conditions of children and adolescents. In addition, the mass information media conveyed to young people messages of doubtful moral value and tempted them with material goods beyond their reach, thus encouraging hedonism and aggression, if not actual crime.

6. Lastly, he said that in her message Mrs. Patricia de Arzú expressed her profound gratitude to all Governments, individuals, institutions and organizations which worked for the people and the children of Guatemala.

7. Mr. ARRANZ SANZ (Guatemala) said that since the start of the "democratic transition" in 1986 Guatemala had ratified some 50 international human rights instruments, including the Convention on the Rights of the Child, which had entered into force on 2 September 1991. The decade had seen other important events, too: the amendments to the Constitution, the peace process, action on poverty, economic and social development, the strengthening of institutions, action to combat impunity, and free and transparent general elections.

8. In order to implement the provisions of the Convention, the Government had set up the Commission for the Convention on the Rights of the Child, which was made up of various governmental and non-governmental organizations and which, with the assistance of international bodies, undertook action to benefit children. The Commission had taken part in preparing the draft law relating to the code on childhood and adolescence, which was currently receiving its final reading in Parliament. In addition, Guatemala had in 1991 drawn up a plan of action with a view to implementing the recommendations made by the World Summit for Children. He mentioned in that context that the social policy of the Guatemalan Government stressed the importance of respect for life, of the individual as the centre and the subject of development, of the family, of peace and democracy, of respect for the environment and of the careful management of natural resources.

9. Demographically, Guatemala, with a population of about 10 million, was characterized by a wide cultural, ethnic and linguistic diversity, as indicated in HRI/CORE/1/Add.47, paragraphs 177-180. Sixty-five per cent of the population lived in rural areas and 44 per cent of Guatemalans were under the age of 15.

10. On the economic front, he noted that 10 per cent of the population received 44 per cent of the national income and that 2.2 per cent of landowners owned 65 per cent of usable agricultural land. Meanwhile, 86 per cent of the population lived below the poverty line. The worst affected districts were inhabited largely by Mayas. Women and children were the main victims of the situation, particularly in areas directly affected by the armed conflict.

11. To put an end to the conflict, the Government of the Republic and the Unidad Revolucionaria Nacional Guatemalteca (URNG) had signed several agreements covering the following questions: respect for human rights, the return of populations uprooted by the armed conflict, the creation of a commission to investigate human rights violations and acts of violence, the identity and rights of indigenous peoples, socio-economic factors and land ownership. The comprehensive peace agreement that was shortly to be signed would usher in a solid and lasting peace, improve the living conditions of the most disadvantaged sectors and make possible the lasting development of the country. To that end, the Government intended to consolidate democracy, speed up the modernization of the economy, take action against poverty, make rational use of natural resources while respecting the environment, modernize and decentralize the State and improve the situation of children in the areas of health, nutrition and education.

12. The malnutrition rate in Guatemala was high. In 1990, 4 per cent of children under the age of five had been found to suffer from nutritional deficiency and, according to a survey conducted in 1986, 37.4 per cent of primary school children suffered from retarded growth. Breast-feeding, however, was current practice. In 1987, 94.6 per cent of babies under the age of three months, 79 per cent of infants aged less than one year and 29.4 per cent of those aged under two years had been breast-fed. Furthermore, while food and nutrition programmes had not achieved the results hoped for, programmes designed to resolve problems due to lack of micro-nutrients had proved effective.

13. The fact that barely 55 per cent of the population had access to the services of the Ministry of Public Health and Social Assistance or to those of the various private health schemes was due to, among other factors, the Guatemalan population being scattered over some 22,000 remote villages, to the inadequacy of budgetary funds allocated to health, and to the inappropriate distribution of the resources of the Ministry of Health, 35 per cent of which were earmarked for regional hospitals and health centres while, 40 per cent went to the two hospitals located in the capital.

14. The illiteracy rate in Guatemala was 38 per cent in the country as a whole and 70 per cent among the indigenous population. The proportion of children attending primary school had been 82.7 per cent in 1994, the objective for 1996 being 85 per cent.

15. The CHAIRPERSON invited members of the Committee to ask the delegation for clarifications on the questions relating to general measures of implementation contained in the list of issues (CRC/C.12/WP.1).

16. Mrs. SARDENBERG thanked the delegation for its introduction and welcomed the message addressed to the Committee by the First Lady of Guatemala. As the initial report of Guatemala had been prepared by the previous Government and the written replies to the questions of the Committee emanated from the new Government, the initial report ought to be updated. In her view, the report consisted in a list of activities conducted and steps taken for the benefit of children rather than a real analysis of the problems the Government was encountering. She also asked for an explanation of the reasons that had prevented Guatemala from submitting the report on compliance with the Convention prepared in 1992.

17. She would appreciate additional information on children in especially difficult circumstances, and thought that the new Government should be encouraged to set up, at institutional level, a working group for the implementation of the recommendations of the various United Nations human rights bodies to which Guatemala reported.

18. On the concept of the child she saw a paradox. It appeared from the documents transmitted by the Guatemalan delegation that the child was often considered as an immature being having no legal capacity, whereas in practice children were often required to work like adults. It was to be feared that such a situation would influence both national policy and the population's attitude towards children. In that connection, she asked where matters stood with regard to the draft code on childhood and adolescence which was before

the Guatemalan Congress. Expressing concern at the lack of an overall policy on protection of the rights of the child, she asked what measures had been taken by the Government with a view to the full implementation of the Action Plan for the benefit of children. Lastly, she expressed the view that better coordination of the activities of the various public mechanisms established towards that end was desirable, and asked whether the Government envisaged any measures to improve the relevant institutional structures.

19. Mrs. BADRAN shared the previous speaker's view that it would be useful if the Government set up a working group for the implementation of the recommendations of various United Nations human rights bodies.

20. With regard to the inequalities existing between various sections of the population, she said that it was important to ensure that, as the World Bank had recommended, structural adjustment policies did not harm the most vulnerable groups, namely women and children. On the subject of coordination of the activities of various national mechanisms for children, she suggested that the Government might seek the help of UNICEF with a view to improving the efficiency of existing structures. Lastly, she asked for additional information on the stage reached in the consideration by the Congress of the draft code on childhood and adolescence.

21. Mrs. SANTOS PAIS welcomed the positive developments in Guatemala and, in particular, the negotiations for peace and the installation of a new Government. The agreements on the identity of indigenous peoples, on economic and social problems and on the agrarian situation also reflected an encouraging political commitment. She also welcomed the existence of the Office of the Human Rights Procurator. The Procurator's obligation to report annually to Parliament on his activities would facilitate regular evaluation of the action taken.

22. She viewed as positive the fact that the Convention took precedence over national legislation in matters of the rights of the child but said that it would be interesting to know how matters stood in practice. She also welcomed the 1991 Action Plan for Social Development, Childhood and Youth. However, it was stated in the report that the Action Plan had not been properly implemented and that it had not been possible to evaluate its effects. She noted the delegation's point about the need to harmonize the legislation in order to take the rights of the child more fully into account.

23. She asked for further clarification concerning the situation of street children, refugee children and orphans and for fuller information about the operation of the various national data collection, coordination and follow-up mechanisms. According to the report, it had been recommended in 1989 that the Office of the Human Rights Procurator should become the coordinator of all the national entities connected with policy on the rights of the child. Where did matters stand at present in that respect?

24. Under the agreements on economic and social problems and on the agrarian situation concluded in May 1996, decentralization was to be promoted. What role were local authorities playing in that respect and did they have sufficient resources at their disposal to ensure that decentralization policies were implemented? How did the Government envisage strengthening the

role of the Office of the Human Rights Procurator at local level, and in wha way was the protection of children, particularly indigenous children, guaranteed at that level?

25. With reference to the collection of data on childhood, the Government recognized in the report that it had been impossible to evaluate the effect of the Action Plan for Social Development because of lack of information, i particular concerning refugees and asylum-seekers, who apparently numbered roughly 33,000 persons, including many children; yet without such data it w difficult to promote and protect the rights of those persons. She also regretted the Government's failure to indicate whether it needed internatio assistance in that area, a question which the Committee had raised in the l of issues. International assistance in that particular area would seem to essential.

26. With regard to training programmes that should be envisaged with a vie to publicizing the Convention, the Government recognized in the report that there was too little awareness of the rights of the child and that, in practice, the child was not considered to be fully a subject of law. Howev the report mentioned a variety of measures taken to train specialists in childhood matters under the Convention. Were those measures systematic or sporadic?

27. She would be interested to know what was being done to prevent violat of the rights of indigenous populations and whether the Government had implemented any programmes to make their culture better known and appreciat She was also concerned at the very high illiteracy rate and asked what measures had been taken to ensure that campaigns designed to promote awaren of the rights of the child reached the illiterate sectors of the population Lastly, she asked what was being done to ensure that the Convention could b invoked before the courts or the administrative authorities in cases of conflict between the Convention and domestic legislation. In that connecti she recalled that under article 4 of the Convention States parties were required to undertake all appropriate legislative, administrative, and othe measures for the implementation of the rights recognized in the Convention.

28. Mrs. KARP asked what difficulties had been encountered in the process setting up the local development councils which were to be the principal mechanism for promoting the rights of the child in isolated parts of the country. The Guatemalan delegation had stressed that the question of coordination between the various ministries responsible for ensuring respec for the rights of the child was causing serious problems for the State. Th aspect in which she was most interested was the coordination of the activit of the three bodies mentioned in the report, namely, the Office of the Huma Rights Procurator, the Office of the Children's Ombudsman and the Commissio for the Convention on the Rights of the Child. It would be useful to know what links existed between those three bodies. Furthermore, the delegation having indicated that the courts were the chief means available to those bodies in order to ensure observance of the rights of the child, how did th bodies in question coordinate their efforts to defend the rights of the chi before the judicial authorities? Could the delegation give examples of rec court decisions favourable to children? She would also be interested to kn whether decisions adopted by courts had had repercussions in other areas of

importance to the welfare of children, particularly at the level of the administration and of the various authorities concerned. According to information available to the Committee there was no budget for the implementation of the Action Plan for Childhood and that was the reason why the plan had not yet been implemented. The question that arose, therefore, was whether the enactment or any new law designed to benefit children should not be accompanied by a budgetary appropriation that would ensure its implementation.

29. Mr. MOMBESHORA noted that the Guatemalan Government recognized in its report that, even if the text of the Convention were translated into the local languages, the great majority of the indigenous population, which was illiterate, would not be able to read it, and that, for that reason, the contribution of local radios was extremely important. It would be interesting to know in that connection what percentage of the population had access to radios and how the Government intended to resolve definitively the information problem. On the subject of the protection of children's rights in Guatemala, it was stated in paragraph 38 of the report that the authorities gave priority to education programmes and activities designed to promote those rights. In view of the alarming reports of killings of children by members of the security forces, how, in concrete terms, were the authorities proposing to proceed? On the subject of children's work it was stated, in particular, that the economic aspects of the question had been analysed and appropriate measures taken. As the delegation had not provided any information on that point, it would be interesting to know what conclusions had been arrived at as a result of the analysis. Similarly, on the subject of children not attending school, it was stated in the report that according to a recent study most of the parents concerned preferred to put their children to work rather than send them to school. Fuller details on the study's content would be welcome.

30. Mr. ARRANZ SANZ (Guatemala) said that he had no information about the report of Guatemala prepared in 1992. On the other hand, he could inform the Committee on events that had taken place since 1994, which had been an extremely important year for the country. It was in 1994 that the administration of the previous Government had prepared the report currently before the Committee, which proved the importance Guatemala now attached to the rights of the child and testified to the commitment not only of the Government, but of the Guatemalan State as a whole. Thanks to the peace agreements, a new momentum existed in the country and serious commitments had been entered into to ensure that the funds set aside for education, nutrition and health were increased by 50 per cent between 1996 and the year 2000. So far as coordination between authorities responsible for promoting the rights of the child was concerned, it was true that no consistent policy for youth existed as yet, but the Government was envisaging shortly setting up a national family and childhood institute in order to fill certain gaps in that area. Furthermore, there existed in the Office of the Prime Minister a Social Welfare Department directly supervised by the Vice-President of the Republic and responsible for coordinating social policy and all activities for the benefit of youth.

31. The coordination of the activities of the Presidential Commission for the Convention on the Rights of the Child was the task of the Office of the Human Rights Procurator and, more precisely, of its Children's Protection

Department. Moreover, the draft code of childhood and adolescence would have to be in conformity with the Convention as well as with domestic legislation, and, since the Convention took precedence over domestic law, it was now legally possible to declare certain provisions of national law to be unconstitutional. However, the application of such a code, once it was adopted, would give rise to a number of practical problems; in particular, the structures necessary for its implementation would have to be established, an operation that was liable to prove expensive. Noting that some members of the Committee had remarked that the child did not have legal personality in Guatemala, he said that the reason why the authorities attached so much importance to the new code was precisely that they wanted the child to become a fully-fledged subject of law. The Presidential Commission, for its part, was considering making the new legal document the foundation of respect for the rights of the child in Guatemalan society. Its adoption would therefore represent the culmination of an extensive process of consultation open to all parties concerned.

32. With regard to social differences in Guatemala and to the difficulties inherent in the implementation of the structural reform programme, he said that the prime object was to ensure that the adjustment did not aggravate the situation of children, who had already suffered greatly from a conflict which had lasted almost 30 years.

33. The almost complete lack of statistical data was another major obstacle to government action. In that area, Guatemala counted greatly on the assistance of the international community. Monitoring compliance with the Convention would call for precise indicators in view of the fact that there were at present in Guatemala some 150,000 displaced children, that millions of others had no access to education or health care, and that no accurate statistics on the situation of those children existed beyond the projections established with the help of UNICEF and other agencies.

34. So far as informing the population about the Convention's provisions was concerned, he said that radio broadcasts, which were received in some 82 per cent of homes, were an extremely efficient medium; however, information was communicated by other, more direct means as well, in particular through the departmental human rights commissions and the NGOs operating on the ground. The use of the printed word would be of little use as few members of indigenous groups were able to read, even in their own languages.

35. A survey conducted by the Government in 1995 within the framework of the electoral process showed that despite all the efforts made, only 10 per cent of the child population were aware of the Convention's existence. A review of the strategy followed with regard to communication would therefore seem to be indicated.

36. Replying to the question concerning the training of police officers, he said that while the number of complaints involving police brutalities suffered by street children had diminished, the problem had not been resolved and the police apparatus had to be completely restructured. In reply to the question as to why so many children in Guatemala did not attend school, he said that the problem was due to the fact that the teaching system was out of step with national reality. Many parents refused to send their children to school

because they considered the knowledge acquired there to be of little practical use. The new Government was aware of the situation and had appointed an eminent member of the ruling party to head the Ministry of Education. The present strategy was designed (a) to raise the school attendance rate to at least 85 per cent and (b) to increase support for the National Literacy Committee in order to make up for shortcomings in the education system which had led to an increasing number of illiterates aged over 15 years. It was to be hoped that, with the help of the NGOs working in parts of the country where there were no national education establishments, all Guatemalan children would, by the year 2000, receive at least six years of primary schooling.

37. In connection with the role of the Human Rights Procurator at local level, he said that the Procurator was assisted by delegates in all parts of the country. With a view to strengthening his role still further, Parliament was currently considering a draft act to create human rights committees at the municipal level.

38. With reference to the short-term and medium-term objectives listed in his initial presentation, he said that the central objective was to define an integrated childhood and adolescence policy and, to that end, to set up a special body responsible for carrying out that policy, namely, the institute whose functions he had described. It would also be important to adopt and implement the code on childhood and adolescence as well as the law on adoption and all other relevant instruments.

39. Mrs. SARDENBERG asked how the Convention was being disseminated, especially considering the lack of funds, and welcomed the participation of students mentioned in paragraphs 87 and 88 of the report. With reference to the Mayas, she understood that a real problem arose because of the remoteness of the areas in which they lived and the fact that many of them could not read and that they spoke different languages.

40. Mrs. SANTOS PAIS, referring to the question of mechanisms for the implementation of the Convention, asked which was the responsible body and whether the decision makers, particularly those responsible for allocating funds, were known to the geographically remote and rural populations. It would also be helpful if the Guatemalan delegation could explain how the activities of the central organs were coordinated with those of local bodies; dialogue between the two ought to make it possible for the general policy to reflect the feelings of the population. It was also essential for the relevant bodies to cooperate among themselves so as to strengthen the follow-up system despite the lack of funds. Moreover, the public authorities would not be able to carry out a consistent and concerted policy unless they had access to all the data concerning all children in all spheres. An important step in the direction of greater consistency would have been taken when the role of the Procurator was strengthened at the local level by local commissions.

41. She had no doubt that the Committee would recommend that Guatemala should adopt the Code on Childhood and Adolescence so as to remove all doubt regarding the respective status of the Constitution and the Convention. It should be made perfectly clear that the Convention came first.

42. She wished to stress the importance of training and education activities in changing popular attitudes towards "minors", a pejorative term in so far as it implied that the young had no legal capacity. There again, it was necessary to make the provisions of the Convention known to schoolchildren as well as, in particular, to judges, members of the police force, and schoolteachers. She would also like to know what was being done to ensure respect for traditions and cultural differences among the Guatemalan population. Lastly, recalling the importance of article 4 of the Convention, she asked how the priority that should be given to children - indigenous, rural, refugee, female, etc. - was reflected in State or municipal budgets, adding that the budget was not merely a financial mechanism but also a mechanism for social action.

43. Ms. KARP said she understood the problems that arose in connection with violations of the rights of the child but would like to know how they were dealt with by the courts, the Supreme Court or other judicial bodies. She asked whether there was a settled policy on the rights of the child, in particular as regards the participation of children, and how the courts were helping to change the situation.

44. As Mayan was not a written language, she asked what steps were being taken to ensure, either that it became one, or that primary education in another, written language was compulsory.

45. Mr. ARRANZ SANZ (Guatemala) said that dissemination of the Convention was achieved in several different ways: through groups of academics, competitions, stage plays, literary works, audio-visual media, radio, newspapers, etc. Maya children received education in the five principal Mayan languages from specialized teachers in all parts of the country. Lastly, he said that the Human Rights Procurator was responsible for promoting the Convention and ensuring its implementation, but was not in charge of the management of policies and social action, the responsibility for which rested with the Social Affairs Secretariat.

46. Mr. GANDARA (Guatemala) reminded the Committee that Guatemala had been a democracy only since 1986 and that the many problems still to be resolved included, in particular, that of the violation of the rights of the Maya people, who, although representing 65 per cent of the population, had for a long time suffered discrimination. However, the Social Affairs Cabinet, which reported to the Social Affairs Secretariat of the Office of the President, had been entrusted with coordinating measures taken by the legislative, the executive and the judicial authorities so that those organs might adopt the same view of what constituted human rights violations.

47. Among the most important of those violations were the absence of health care and education. In order to remedy the former it was important to encourage the establishment of preventive medicine services; to remedy the latter, it would be necessary to introduce bilingual teaching in the indigenous languages and in Spanish. The budget share that would be set aside for the implementation of the Convention would go to the institute whose establishment was being envisaged and which would be entrusted by the Government with the elaboration of policies to be pursued.

48. Mr. ARRANZ SANZ confirmed that the institute to be established would be the body entrusted with the implementation of the Convention's provisions. Replying to another question, he said that it was true that the Convention's provisions were rarely invoked by lawyers before the courts. As for discrimination against the indigenous populations, the participation of, in particular, the Maya population was becoming a reality thanks to the recently concluded agreement; the different populations were learning to coexist in a climate of mutual understanding.

49. Writing was taught not only in Spanish but also in Mayan, an official alphabet for which had recently been approved. Illiteracy certainly still existed, especially among the Mayas, but it was going down. Lastly, in reply to the question raised about specific cases of violation of the rights of the child brought before the courts, he said that some cases had indeed been dealt with, but impunity had not disappeared for all that.

50. Mrs. BADRAN said it was a matter for concern not only that the age of marriage in Guatemala was not the same for boys and girls - which represented a form of discrimination - but also that it was too low. She doubted whether young people aged 14 or 16 were sufficiently mature to start a family or had the material means for raising children, apart from the fact that early pregnancy was dangerous for the health of both mother and child. Efforts should be made to accustom the population to the idea that family planning services were preferable to abortion in ensuring that families were less large and the maternal mortality rate less high.

51. Mrs. KARP, reverting to the subject of the very low marriage age for girls, its discriminatory aspect and the danger it represented to girls' health, asked whether it would not be possible for the law to provide that marriage below a certain age would be possible only with the approval of the courts, which, in her view, were in a better position than parents to consider the child's best interests.

52. Mr. MOMBESHORA, noting that the minimum age of employment was 14 years or in authorized cases, even less, asked how the safety of young people thus employed was ensured and what had been the upshot of the seminar held to discuss the content of ILO Convention No. 138 on that subject.

The meeting rose at 1 p.m.